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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,950	02/04/2000	Jake B. Carpenter	B0932/7134	9504

7590 04/20/2004

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N . 09/498,950	Applicant(s) CARPENTER ET AL.	
	Examiner Frank Vanaman	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-104 is/are pending in the application.
- 4a) Of the above claim(s) 30-35 and 51-55 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36-50 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-8, 10-14, 17-20, 22-24, 26-28, 56, 57, 60, 62-65, 67-71, 74-80, 82-90, 93, 94, 96-98, 101, 102, 104 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 9, 15, 16, 21, 25, 29, 58, 59, 61, 66, 72, 73, 81, 91, 92, 95, 99, 100 and 103 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Status of Application

1. Applicant's request for reconsideration, filed Feb. 4, 2004, has been entered in the application. Claims 1-104 remain pending, claims 30-35 and 51-55 being withdrawn from consideration.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 2, 5-8, 10-14, 17-20, 22, 85, 86, 88-90, 93, 94, 96-98, 101, 102 and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al. (US 5,918,897, cited previously) in view of Victor (CA 1001676, cited previously). Hansen et al. teach a system for attaching a snowboard boot (2) including a base plate (3, 4), a flexible unitary binding strap (5 and 10) having a boot shaped contour and which includes a slit-shaped pocket (portion 10) which forms with the strap, an internal opening (interior face of the external surface of 10, for example) having a top, bottom and sides, a further strap (8, 9, 11) with one end (e.g., 11) insertable through the pocket, the portion of the strap in the pocket corresponding to the contour of the strap 5, 10), the other end connected to a binding base portion (through 7, 12, 13), still further strap elements (29, 30) connectable to the binding strap (through 7' and 13, figure 4), one end of each of the still further strap elements connected to the base (and thence also to the binding strap), the other ends connected to a pair of buckles (27, 28) which also engage strap 8, 9, 11; the portions 8, 9 of the straps and the engaged portions of the buckles 27, 28 constituting mating features to the breadth claimed; each of the strap elements being mounted so as to move in longitudinal directions with respect to the other strap elements to the extent claimed. The reference of Hansen et al. fails to teach the further strap element connection (e.g., 27, 28, 29, 30) as being adjustable when the boot is in the binding. Victor teaches a binding device wherein a strap (56) provided with a buckle (58) is additionally provided with a secondary adjusting buckle (54). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the further straps and strap connections (e.g., 27-30) taught by Hansen et al. each with secondary adjusting elements such as the buckles (54) taught by Victor,

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which are capable of being tightened or released when a boot is in the binding, for the purpose of allowing a user to set an overall range of binding tension settings, while still allowing the quick attachment and detachment provided by the strap 8, 9, 11.

As regards claim 12, In view of Hansen et al.'s having provided a pair of strap portions located in the pocket portion (10 of strap 5), it would have been obvious to one of ordinary skill in the art at the time of the invention to provide separate pockets for each strap portion for the purpose of preventing snarling or crossing of the two strap portions (e.g., portions 8, 9).

4. Claims 23, 24, 26, 27, 28, 56, 57, 60, 62-65, 67-71, 74-80, 82-84 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al., in view of Victor and Andre (US 2,531,763, cited by applicant). The reference of Hansen et al. as modified by Victor is discussed above and fails to teach the engagement of the strap portions 29, 30, with the buckles 27, 28, modified by the reference to Victor to be adjustable, as including a plurality of apertures in at least the straps and a fastener which may be engaged with the apertures. Andre teaches a mounting system for use with a portion of a boot which requires closure, including a first strap portion (17) with apertures (19) and a mating buckle (18) including a fastener which may removably engage the apertures. It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the connection of strap portions 29, 30 to buckles 27, 28, modified by the reference to Victor to be adjustable, with a buckle having a fastener which releasably engages one of a plurality of apertures positioned at least on the strap portions, for the purpose of allowing each of the straps to be individually adjusted, and for the purpose of allowing the degree of engagement to be easily reproduced (e.g., by engaging the fastener portion of the buckle with the same aperture), facilitating consistent operation of the binding.

Allowable Subject Matter

5. Claims 3, 4, 9, 15, 16, 21, 25, 29, 58, 59, 61, 66, 72, 73, 81, 91, 92, 95, 99, 100 and 103 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 36-50 are allowed.
7. Applicant is reminded that claims 30-36 and 51-55 are withdrawn from consideration as noted above.

Response to Arguments

8. Applicant's arguments have been carefully considered. As regards the reference to Victor being combined with Hansen, the examiner notes that while Hansen appears on the surface to desire the avoidance of the 'complicated' threading of straps through buckles, the reference already teaches threading of the various straps through elements such as 17, 23, 27 and 28 which are no more complicated than a conventional frictional buckle as best understood. Under common usage, further, the reference to Victor would be understood to rely on engagement and disengagement of the buckle element 58, with the further buckle elements 54 being set to a particular base length to the binding straps, and as such, it would not be deemed unreasonable to provide Hansen's further straps and strap connections (e.g., 27-30) each with secondary adjusting elements such as the buckles (54) taught by Victor, which are capable of being tightened or released when a boot is in the binding, for the purpose of allowing a user to set an overall range of binding tension settings, while still allowing the quick attachment and detachment provided by Hansen's strap 8, 9, 11. The advantage to such an arrangement would be that an overall range of length associated with a particular desired tension and a particular shoe or boot size may be adjusted if desired or preset, by the adjustment of the further buckle elements, whereby the user would still be allowed the quick attachment and detachment that strap 8, 9, 11 of Hansen would allow.

As regards the provision of an integrally molded buckle element, the examiner has not suggested that the inclusion of an integral molding in the combination, and while

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it may be deemed obvious to provide a buckle connection at Hansen's elements (27, 28, 29, 30) there has been no suggestion that such a buckle be integrally molded and that such a molding be bodily incorporated into the structure of Hansen. Please note that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Furthermore, should applicant suggest that one of ordinary skill in the art would not understand how to construct the combination, and incorporate a buckle that is connected to a binding element having with a threaded connection, a perusal of the previously cited German reference to "Take Off Productions" (DE G 91 13 766.7) will reveal that such a connection would not be at all beyond the skill of the ordinary practitioner. This reference is not being applied in combination with the other applied references under 35 USC §103, but is merely being pointed out as evidence that such connections are very well known.

As regards the reference to Andre, please note that the reference to Andre is not being applied as a replacement for the continuous engagement and disengagement scheme taught by Hansen, but as a modification to the buckle elements taught by Victor, and applied in combination to an otherwise non-adjustable portion (27, 28, 29, 30) of Hansen, as has been explicitly stated in the rejection. It has not been suggested to make Hansen's system, modified for further adjustability by Victor, into a step-wise engagement, rather it has been suggested that it would have been obvious to one of ordinary skill in the art to replace the connection of Hansen's strap portions 29, 30 to portions 27, 28, as modified by the reference to Victor to be adjustable, with a buckle having a step-wise fastening scheme, in order to allow the degree of engagement (i.e., the setting of the base length and associated tension) to be easily reproduced (e.g., by engaging the fastener portion of the buckle with the same aperture), facilitating consistent operation of the binding.

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Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326
After Final Amendments: 703-872-9327
Customer Service Communications: 703-872-9325

F. VANAMAN
Primary Examiner
Art Unit 3618


4/15/04